Calendar No. 702

97TH CONGRESS, 2d Session | SENATE | REPORT No. 97-492

PROVIDING FOR THE USE AND DISTRIBUTION OF FUNDS AWARDED THE BLACKFEET AND GROS VENTRE TRIBES OF INDIANS AND THE ASSINIBOINE TRIBE OF THE FORT BELKNAP INDIAN COMMUNITY, AND OTHERS, IN DOCKETS NUMBERED 250-A AND 279-C BY THE UNITED STATES COURT OF CLAIMS, AND FOR OTHER PURPOSES

JULY 6, 1982.—Ordered to be printed

Filed under authority of the order of the Senate of JULY 1 (legislative day, JUNE 8), 1982

Mr. COHEN, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 1986]

The Select Committee on Indian Affairs, to which was referred the bill (S. 1986) to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250-A and 279-C by the United States Court of Claims, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

On page 2, line 2, strike "Reservation" and insert in lieu thereof "Indian Community".

On page 2, line 17, strike "Reservation" and insert in lieu thereof "Indian Community".

On page 2, line 24, strike "Reservation" and insert in lieu thereof "Indian Community".

On page 3, line 6, strike "Reservation" and insert in lieu thereof "Indian Community".

On page 3, strike lines 17 to 23 and insert the following:

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons born on or prior to and living on the date

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of enactment of this Act who are duly enrolled as Gros Ventre members of the Fort Belknap Indian Community who are at least one-quarter degree Gros Ventre blood or who are at least one-eighth degree Gros Ventre blood and at least one-eighth degree Assiniboine blood and who are not eligible to share in Section 3 of this bill.

On page 4, line 2, strike "Reservation" and insert in lieu thereof "Indian Community".

On page 4, line 21, strike the period and add the following: "or other federal assistance programs".

On page 4, line 24, strike the period and insert a comma (,) in lieu thereof and the following: "including the establishment of deadlines for filing applications for enrollment".

PURPOSE

Funds to satisfy claims in dockets 250–A and 279–C were appropriated on January 23, 1981. However, the Bureau of Indian Affairs did not act on the formal distribution plans submitted by the tribes to the Billings Area Office from the Fort Belknap Agency office in Harlem, Montana, or from the Blackfeet Agency, Browning, Montana. Under the time limit prescribed by the 1973 Indian Judgement Fund Act, the Bureau has 180 days after funds are appropriated to submit an approval plan to Congress; a 90-day extension may be requested. Plans are effective in 60 days unless either the Senate or the House disapproves the plan. In the case of dockets 250–A and 279–C the Bureau neglected to forward an approved plan to Congress within the required time limit. The purpose of S. 1986 is to provide for distribution of funds as set forth in the plans that were developed by the Tribes under the procedures of the distribution Act of 1973.

BACKGROUND

Petitions in dockets 279–C and 250–A were filed with the Indian Claims Commission on August 9, 1951, under the Act of August 13, 1946. Docket 279–C was filed by the Blackfeet Tribe and the Gros Ventre Tribe against the United States for a general accounting of its management, handling, and distribution of tribal money and other property. Docket 250–A was a similar claim filed by the Assiniboine Tribe. On December 5, 1969, the Claims Commission asked that the two actions be consolidated for trial and decision as a single case. The Commission transferred the claims to the Court of Claims as a single case on September 29, 1978. On December 18, 1980, the parties filed a stipulation for final judgment, with settlement in specific dollar amounts. The judgment award covered all claims brought in both dockets but did not address a Blackfeet claim previously transferred to Docket 279–D.

On January 7, 1981, the Court of Claims ordered that judgment be entered against the United States in favor of the tribes as follows: For the Assiniboine Tribe of the Fort Belknap Reservation—$2,170,013; for the Blackfeet Tribe of the Blackfeet Reservation—$400,000; and for the Gros Ventre Tribe of the Fort Belknap Reservation—$2,094,-

987. Funds to satisfy the awards were appropriated on January 23, 1981.

The Indian Judgment Fund Act of October 19, 1973, governs the use and distribution of Indian claims. If the Bureau of Indian Affairs does not present a distribution plan to Congress within 270 days, including a 90-day extension, legislation must be submitted to distribute the funds. The tribes acted expeditiously to meet the requirements of the Act and the Fort Belknap Superintendent submitted the plans to the Area Office in Billings on June 18, 1981. The plans were then submitted to the BIA Central Office in Washington, but were mislaid and no action was taken. After the 270-day deadline had passed, the Tribe notified Senator Melcher who requested BIA officials to draft a bill to incorporate the provisions for distribution developed by the Tribes.

Both the Assiniboine Tribe and the Gros Ventre Tribe of the Fort Belknap Reservation held general meetings and submitted resolutions proposing that the funds be divided so that 80 percent would be paid out per capita and 20 percent would be utilized for social and economic programming, including but not limited to land acquisitions and local reservation development projects. The Gros Ventre would limit distribution to those members who have one-fourth (¼) or more Gros Ventre blood.

The Blackfeet Tribe has agreed to utilize the entire $400,000 for tribal government operations and social and economic programs.

LEGISLATIVE HISTORY

S. 1986 was introduced by Senator Melcher on December 16, 1981, and referred to the Select Committee on Indian Affairs. A hearing on the measure was held on January 11, 1982, in Great Falls, Montana.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Select Committee on Indian Affairs, in open business session on May 13, 1982, with a quorum present recommends by a unanimous vote that the Senate pass S. 1986 as amended.

COMMITTEE AMENDMENTS

The Committee has reviewed technical amendments proposed by the Department of the Interior and by tribal witnesses at the hearing on January 11, 1982. After further consultation with the Department and with the tribes, the Committee adopted the following amendments:

1. On page 2, line 2, strike "Reservation" and insert in lieu thereof "Indian Community".
2. On page 2, line 17, strike "Reservation" and insert in lieu thereof "Indian Community".
3. On page 2, line 24, strike "Reservation" and insert in lieu thereof "Indian Community".
4. On page 3, line 6, strike "Reservation" and insert in lieu thereof "Indian Community".
5. On page 3, strike lines 17 to 23 and insert the following:

> (a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible)

to all persons born on or prior to and living on the date of enactment of this Act who are duly enrolled as Gros Ventre members of the Fort Belknap Indian Community who are at least one-quarter degree Gros Ventre blood or who are at least one-eighth degree Gros Ventre blood and at least one-eighth degree Assiniboine blood and who are not eligible to share in section 3 of this bill.

6. On page 4, line 2, strike "Reservation" and insert in lieu thereof "Indian Community".

7. On page 4, line 21, strike the period and add the following: "or other Federal assistance programs".

8. On page 4, line 24, strike the period and insert a comma in lieu thereof and the following: "including the establishment of deadlines for filing applications for enrollments".

SECTION-BY-SECTION ANALYSIS

Section 1. Authorizes the distribution of awards in dockets numbered 250–A and 279–C of the United States Court of Claims.

Section 2. Provides that the award of $400,000 to the Blackfeet Tribe in docket 279–C be held in trust and invested by the Secretary for the benefit of the members of the Blackfeet Tribe and authorizes the Tribe to use the funds for governmental operations and social and economic programs.

Section 3. Provides that the award of $2,170,013 to the Assiniboine Tribe of the Fort Belknap Reservation in docket 250–A be distributed:

(a) eighty percent per capita;

(b) twenty percent to the treaty committee of the Tribe for social and economic programs, including land acquisitions and development of local reservation projects.

Section 4. Provides that the award of $2,094,987 to the Gros Ventre Tribe of the Fort Belknap Reservation in docket 279–C be distributed:

(a) eighty percent per capita to persons who are at least one-quarter degree Gros Ventre blood or who are at least one-eighth degree Gros Ventre blood and at least one-eighth degree Assiniboine blood and who are not eligible to share in Section 3 of this bill.

It should be emphasized that eligibility to share in the award in Section 4(a) is limited to enrolled Gros Ventre members of the Fort Belknap Indian Community who are at least one-quarter degree Gros Ventre blood or who are at least one-eighth degree Gros Ventre blood and at least one-eighth degree Assiniboine blood and who are not eligible to share in Section 3 of this bill.

This distribution bill is not intended in any way to increase, diminish, or in any way affect the right of the tribe to determine its membership.

(b) twenty percent to the treaty committee of the Tribe for social and economic programs, including land acquisitions and development of local reservation projects.

Section 5. Provides that per capita shares shall be paid directly to living competent adults; shares to beneficiaries of deceased individuals

and shares to minors under eighteen shall be paid in accordance with regulations and procedures established by the Secretary.

Section 6. Provides that none of the per capita funds of funds held in trust are subject to income tax nor shall they be counted as income in determining eligibility for assistance under the Social Security Act or other federal assistance programs.

Section 7. Authorizes Secretary to prescribe rules and regulations to carry out this Act including the establishment of deadlines for filing applications for enrollment.

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 1986, as amended, as provided by the Congressional Budget Office, is outlined below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 20, 1982.

Hon. WILLIAM S. COHEN,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1986, a bill to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250–A and 279–C by the United States Court of Claims, and for other purposes, as ordered reported by the Senate Select Committee on Indian Affairs, May 13, 1982.

Based on this review, it is expected that no additional cost to the government would be incurred as a result of enactment of this legislation. S. 1986 provides the legal framework necessary to distribute funds appropriated in fiscal year 1981 to satisfy particular claims against the government.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1986 will have no regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

The pertinent communication received by the Committee from the Department of the Interior is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 15, 1982.

Hon. WILLIAM S. COHEN,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This response to your request for our views on S. 1986, a bill "To provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community in dockets numbered 250–A and 279–C by the United States Court of Claims, and for other purposes."

We recommend that the bill be enacted, if amended as suggested herein.

S. 1986 would authorize the disposition of funds appropriated to pay a judgment in the amount of $400,000 to the Blackfeet Tribe and $2,094,987 to the Gros Ventre Tribe of the Fort Belknap Reservation in Court Claims Docket 279–C and $2,170,013 to the Assiniboine Tribe of the Fort Belknap Reservation in Court of Claims Docket 250–A. Funds were appropriated to satisfy the awards on January 23, 1981.

The awards represent claims by all three Tribes against the Federal Government for a general accounting of its management, handling and distribution of the Tribes' money and other property. On December 18, 1980, the parties involved in these dockets filed a stipulation for entry of final judgment. The claims asserted were settled in specific dollar amounts with none of the parties seeking review or appeal. Blackfeet claims previously transferred to Docket 279–D were specifically not covered in this compromise. All claims for offsets were waived.

The use and distribution of Indian claims litigated before the Court of Claims are governed by the provisions of the Indian Judgment Funds Act of October 19, 1973. Under the 1973 Act, a distribution proposal in the form of a Secretarial plan must be submitted to the Congress within 270 calendar days, including a 90-day extension. The Department was unable to present a timely Secretarial plan; thus this legislative approach is necessary.

Section 2 of S. 1986 would provide that the funds and interest appropriated to the Blackfeet Tribe be utilized for Governmental Operation and Social and Economic Programs. Again, we point out that most of the Blackfeet claims were transferred by the Indian Claims Commission to Docket 279–D and resulted in a major award which will be handled separately.

Section 3 of the Bill would provide that the funds and interest appropriated to the Assiniboine Tribe of the Fort Belknap Reservation be utilized with 80 percent of the funds distributed per capita to all persons duly enrolled as Assiniboine Members of the Fort Belknap Reservation and 20 percent utilized for Social and Economic Programs by the Assiniboine Treaty Committee with the approval of the Secretary of the Interior.

Section 4 of S. 1986 would provide that the funds and interest appropriated to the Gros Ventre Tribe of the Fort Belknap Reservation be utilized with 80 percent of the funds distributed per capita to

enrolled members of the Fort Belknap Reservation with at least one-quarter degree Gros Ventre blood and 20 percent utilized for Social and Economic Programs by the Gros Ventre Treaty Committee with the approval of the Secretary.

In order to clarify the eligibility requirement for participants in the Gros Ventre distribution, we recommend that section 4(a) be amended to read as follows:

"(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons who were born on or prior to and living on the date of this Act (1) whose names appear as Gros Ventre on the allotment roll made pursuant to the Act of March 3, 1921 (41 Stat. 1355) or (2) who possess at least one-quarter degree Gros Ventre blood derived from members of the Gros Ventre Tribe of the Fort Belknap Reservation."

This technical amendment would not change the meaning nor the requirement of section 4(a).

We also recommend that section 7 be amended to make it clear that the Secretary will establish deadlines for enrollment for per capita distributions.

Finally, we point out that under the Constitution and Bylaws of the Fort Belknap Indian Community, the Treaty Committees would be authorized to plan and utilize the program funds for both the Assiniboine and Gros Ventre Tribes of the Fort Belknap Reservation. Resolutions to accomplish this have been passed for both Tribes.

With the inclusion of the foregoing technical amendments, we recommend enactment of S. 1986.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROY H. SAMPSEL,
Deputy Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 1986 as amended.

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